IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 15TH MARCH 2007 / 24TH PHALGUNA 1928

OP.No. 23497 of 2000(V)

PETITIONER:

M.K.RAJEENDRAN,
VALLAPPIL HOUSE,
RAM MOHAN ROAD,
CALICUT – 4.

BY ADV. SRI.R.PARTHASARATHY

RESPONDENTS:
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1. **THE CALICUT DEVELOPMENT AUTHORITY,**
   REPRESENTED BY SECRETARY, JAYAPRAKASH NARAYAN ROAD,
   NEAR RAILWAY STATION ROAD,
   KOZHIKODE – 2.

2. **STATE OF KERALA, REPRESENTED BY**
   CHIEF SECRETARY, THIRUVANANTHAPURAM.

BY ADV. SRI.M.K.ABOOBACKER,SC, CALICUT DEV.AUTY

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 15/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.NO.23497/2000 V

ORDER ON C.M.P.NO.39567/2000 IN O.P.NO.23497/2000 V

DISMISSED

15/03/2007 **SD/- C.N.RAMACHANDRAN NAIR, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE GOVT.ORDER DATED 26/03/1985.**

EXT.P2: **COPY OF THE ALLOTMENT ORDER DATED 16/03/88.**

EXT.P3: **COPY OF THE ORDER DATED 16/03/88 FROM THE 1ST RESPONDENT.**

EXT.P4: **COPY OF THE COMMUNICATION FROM THE 1ST RESPONDENT DATED 18/07/1994.**

EXT.P5: **COPY OF THE PROCEEDINGS OF 1ST RESPONDENT DTD. 25/05/96.**

EXT.P6: **COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER DTD. 24/09/96.**

EXT.P7: **COPY OF THE DEMAND NOTICE DATED 18/12/96.**

EXT.P8: **COPY OF THE REPRESENTATION DTD. 11/01/97.**

EXT.P9: **COPY OF THE CALCULATION STATEMENT FILED BY PETITIONER.**

EXT.P10; **COPY OF THE COMMUNICATION FROM 1ST RESPONDENT DTD. 19/03/97.**

EXT.P11: **COPY OF THE REPRESENTATION DATED 01/10/97 BY THE PETITIONER TO THE 1ST RESPONDENT.**

EXT.P12: **COPY OF THE ORDER PASSED BY THE 1ST RESPONDENT DTD. 3/07/98.**

EXT.P13: **COPY OF THE REPRESENTATION DT.6.7.08.**

....2/-

O.P.NO.23497/2000 V

EXT.P14: COPY OF THE CALCULATION SUBMITTED ALONG WITH EXT.P13 REPRESENTATION

EXT.P15: COPY ORDER PASSED BY 1ST RESPONDENT DT.11.8.98.

EXT.P16: COPY OF THE REPRESENTATION FILED BY THE PETITIONER DT.18.8.98.

EXT.P17: COPY JUDGMENT OF THE HON'BLE HIGH COURT IN OP. 16518/98 DT.27.1.2000.

EXT.P18: COPY OF THE CALCULATION STATEMENT SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.P19: COPY OF THE STATEMENT MADE BY THE PETITIONER AND THE ENDORSEMENT OF THE REFUSAL BY THE PETITIONER TO PAY THE AMOUNT DEMANDED BY THE 1ST RESPONDENT DT.28.7.2000.

EXT.P20: COPY OF THE ORDER PASSED BY THE GOVERNMENT DT.20.5.2000.

EXT.P21 : COPY OF THE CALCULATION STATEMENT.

1ST RESPONDENT'S EXHIBIT:

EXT.R1(A): COPY OF MONTHLY LICENCE FEE TO BE FIXED IN RESPECT OF THE SHOP KEEPERS REHABILITATED IN THE SHOP ROOM IN 'B' SIDE OF THE VIKAS BUILDING.

/TRUE COPY/

KSS

C.N.RAMACHANDRAN NAIR, J.

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O.P. No.23497 of 2000

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Dated this the 15th day of March, 2007.

JUDGMENT

The petitioner is challenging fixation of rent for the two shop rooms by the first respondent. I have heard counsel for the petitioner and Standing Counsel for first respondent. While the case of the petitioner is that on representation by other lessees, rent has been refixed by reducing the same by 55%, in the case of the petitioner, reduction is only 45%. Standing Counsel submitted that difference is on account of location of the rooms in as much as the rooms of others are in the rear of the building, whereas petitioner's shop rooms are facing the road. I do not think there is any scope for this court to order reduction of rent because if the rent is not acceptable to the petitioner, he is free to vacate the building. However, since there was stay, I feel petitioner can be granted rebate of one third of the interest provided the arrears with two third of interest at agreed rate for belated payment is paid on or before 30.4.2007.

The O.P. is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

pms